

Post-construction Inspections

Attachers generally favor mandatory post-construction inspections, while utilities oppose requiring them. Because utility personnel and resources are already stretched thin by construction demands, we will encourage utilities to conduct post-construction inspections and charge the attacher for them, but we will not require such inspections.

Underground Process

The Parties agree that underground conduit Occupants shall notify conduit Owners in advance of known significant upcoming projects. Unlike aerial attachments, underground attachments require a review of Owners' records to determine where there is room for attachments. In order to make an application, Attachers must be given an opportunity to determine which conduits are full and which can accommodate their proposed attachments. The utilities shall grant reasonable access to their records for this purpose.

The timelines for surveys and make-ready work for aerial attachments will also apply to underground attachments. Some utility Owners oppose the timelines as too short for conduit surveys and make-ready work. However, timely underground attachments are as important as aerial attachments for serving customers and expanding business and we are not persuaded that different timelines should apply. Therefore, the same timelines will apply to both processes unless circumstances beyond the Owner's control, other than resource problems, arise which will excuse meeting the timelines.

To facilitate installation, Owners shall conduct safety inspections of manholes within 10 days of a request by an Attacher to enter a manhole unless the Owner can show why this is not possible, in which case inspections shall be made within 20 days. Once a safety and environmental inspection is done by the Owner for a manhole, it shall be good for 30 days provided contractors do safety inspections each time they enter the manhole. All entities entering the manhole within 30 days of the initial Owner inspection shall share the cost of the inspection.

Owners may require inspectors for work in telecommunications manholes and charge costs to Attachers. Owners may also charge Attachers for entering a manhole and for slack, since the latter takes up space in the manhole. Costs must be justified.

Standard Pole Attachment Agreement/Operating Procedures

Owners and Attachers agree that a standard pole attachment agreement used by all Owners is desirable. Owners have proposed a draft standard agreement. The agreement shall be modified to be consistent with this Order and Policy Statement and submitted to the Commission for approval within 60 days of this Order. In addition, Owners have agreed to post pole attachment operating procedures, specific to their companies, on their websites. Owners request that small companies, that may not have websites, be exempt from the posting requirement. Website posting is required for all companies, but, as always, a company may seek a waiver from the requirement for good cause. The standard agreement and operating procedures must be consistent with the Policy Statement on Pole Attachments.

Dispute Resolution Process

A Dispute Resolution Process is set out in the Policy Statement to handle pole attachment disputes that may arise in the future. The process requires some resolution at the company level before a formal complaint is filed with the Secretary to the Commission. Parties may request expedited dispute resolution in their complaint. Although parties object to some of the timetables of the process, the process is a compromise between Owners' and Attachers' positions.

CONCLUSION

The Policy Statement on Pole Attachments is a reasonable resolution of the issues on which Pole Owners and Attachers disagree and is in the public interest. The Policy Statement is hereby adopted and shall govern the relationship between attachers and utilities, unless they mutually agree otherwise, on a prospective basis.

The Commission orders:

1. The Policy Statement, attached hereto as Appendix A, is hereby adopted.
2. Pole Owners are directed to file five (5) copies of a standard Pole Attachment Agreement, consistent with this Order, within 60 days of the date of this Order.
3. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-M-0432 - Proceeding on Motion of the Commission Concerning Certain Pole
Attachment Issues.

POLICY STATEMENT ON POLE ATTACHMENTS

Issued and Effective: August 6, 2004

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. AERIAL PROCESS.....	1
A. Advance Notice	1
B. Application Process	2
C. Drop Poles.....	3
D. Performance of Pre-Construction Surveys and Costs	3
E. Make-ready Estimates.....	4
F. Make-ready Charges.....	4
G. Rearrangements	5
H. Temporary Attachments	5
I. Boxing	6
J. Extension Arms.....	6
K. Power Supplies	7
L. Standards.....	7
M. Post-Construction Inspections	8
N. Overlashing.....	8
O. Audits.....	10
P. Billing Invoices	10
Q. Periodic Inspections.....	10

III. UNDERGROUND PROCESS.....	11
A. Advance Notice of Application and Process	11
B. Pre-Installation Inspections.....	11
C. Make-ready Work.....	11
D. Inspectors.....	12
E. Slack.....	12
F. Standard Procedures.....	12
G. Point of Entry.....	12
IV. STANDARD AGREEMENT; OPERATING PROCEDURES; ATTACHER AND CONTRACTOR QUALIFICATIONS; AND WORKING GROUP	13
A. Standard Terms and Conditions	13
B. Operating Procedures.....	13
C. License and Contractor Qualifications	13
D. Working Group.....	13
V. EXPEDITED DISPUTE RESOLUTION ("EDR").....	14
A. EDR Process at the Commission.....	14
B. Pendency.....	14

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-M-0432 - Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues.

POLICY STATEMENT ON POLE ATTACHMENTS

I. INTRODUCTION

By Order issued March 27, 2003, the Commission instituted a proceeding directing the Office of Hearings and Dispute Resolution to establish a collaborative process to identify pole attachment issues and resolve differences among the parties as necessary. Issues to be addressed at a minimum include: attachment/occupancy practices; access to poles, ducts and conduits; make-ready costs; use of outside contractors and cost control; and limitations on particular attachments.

A collaborative process including pole Owners, Attachers, utility workers' Unions and Commission Staff was begun in July 2003. Following collaborative meetings, parties submitted a document identifying areas of agreement and disagreement, along with recommendations. Staff submitted final recommendations of unresolved issues and parties commented on those recommendations. This policy statement sets forth a resolution of pole attachment issues, as contemplated by the March 27, 2003 Order.

II. AERIAL PROCESS

A. Advance Notice

Attachers shall notify Pole Owners of known upcoming significant projects in advance of submitting applications.

B. Application Process

Applications for pole attachment licenses shall be processed by the utility pole owner within five business days of receipt. All applications shall be reviewed promptly by the pole Owners for completeness, in order to avoid miscommunications and delay. Applicants shall be notified promptly of any deficiencies. If required pre-established information is missing, the clock will not start for the pole attachment process, provided the information is reasonably available to the Attacher.

If the Owner cannot review the application within five business days and give a date to the Attacher for beginning the preconstruction survey because of multiple applications, the applicant must be contacted within the five business days and a proposed alternate schedule worked out between the parties.

The Owners' draft standard application shall be used.¹ The application field shall also include municipality/township and description of proposed attachments. If information is not available to the Attacher, it shall make that note in the application and the application will not be considered incomplete because of the omission of such information. If parties wish to work out an arrangement in which the Attacher provides more detailed information in exchange for a shorter timeline, parties are encouraged to do so.

In the case of jointly owned poles, Attachers shall apply to both Owners for licenses. The pole Owners may appoint an administrator to coordinate the attachment process. The cost of an administrator will be included in survey charges.

Proprietary information on an application shall be clearly marked "Confidential" by the party submitting it. Each Owner company shall provide a policy on its website showing how it will ensure the privacy and protection of confidential information submitted and that Attachers' confidential information is not shared with any parts of the company that would result in competitive disadvantage to the Attachers.

¹ Case 03-M-0432, Proceeding on Motion of the Commission Concerning Certain Pole Attachment Issues, Pole Owners' Recommendations, Appendix B, Exhibits A-1 and A-2.

C. Drop Poles

There are differences between the facilities placed on drop poles and those attached to distribution poles. In order to fulfill requests for service expeditiously, Attachers need to obtain access to individual poles not previously licensed in order to meet their obligations to customers. Service or drop poles are required to support cables and wires to serve an individual premise or building when that structure is a significant distance from the main distribution pole. Service drops themselves do not normally require conventional framing hardware nor the drilling of the pole for attachments as main distribution facilities do. Installation of services requiring drop pole attachments has been performed in the past without notable incident, except pole Owners may not have been compensated for the use of their poles.

As long as the installation of service drops can be done safely and within the requirements of all relevant codes, procedures and processes, they will be allowed without prior consent and licensing.

Attachers are required to inform Owners of such attachments within 10 business days after they are made, by providing this information to a person designated by the owner by a method that assures its transmission so that the attachments become a matter of record and are counted in subsequent audits. The Attacher shall report to the owner all poles that required attachment for drops that had not been previously licensed. The Owner may require licensing after the notification and may bill the Attacher for the attachment.

D. Performance of Pre-Construction Surveys and Costs

The preconstruction survey shall be completed within 45 days of the application filing date. If the deadline is not met, an approved contractor may do the survey. The contractor may be hired by the Owner. If an Owner fails to meet a deadline and fails to hire a contractor within 45 days of the application filing date, the Attacher may hire an approved contractor. The Owner shall cooperate with the approved contractor. Attachers and Owners are encouraged to work out shorter time frames for a smaller number of attachments. The Owner may charge the Attacher for oversight

personnel to oversee a contractor's activities with notification. In addition, if an Owner is required to pay its workers overtime to meet the deadlines, the Owner shall notify the Attacher. Overtime charges may be passed along to the Attacher if the Attacher is notified and agrees to the additional charges in order to meet deadlines.

Preconstruction survey charges shall be included in an Owner's operating agreement posted on its website. Owners shall supply Attachers with all supporting work papers on request. If there is evidence of double collection, it will be corrected. Owners may make changes in all charges once each year on 30 days notice.

E. Make-ready Estimates

Owners shall submit make-ready estimates to Attachers within 14 days of completion of the survey. If such estimate is not provided to an Attacher within that time, any delay will be subtracted from the pole Owner's time frame for completion of make-ready work.

Make-ready estimates shall be detailed and subject to discussion as to the reasonableness of what make-ready work is necessary. The parties shall attempt in good faith to work out any disagreements before seeking Dispute Resolution from the Commission. However, unit costs are not subject to negotiation.

F. Make-ready Charges

Attachers must pay for make-ready charges within 14 days of receiving the estimate. Make-ready work must be completed within 45 days of the date payment is received by the Owner.

Loaded labor rates may vary for legitimate reasons. Detailed work-papers on how the rate is developed shall be made available to the Attachers on request.

Double collection of expenses is not justified. Make-ready charges shall be in each Owner's operating agreement and posted on its website. All supporting documents shall be given to Attachers on request. Specific complaints may be brought to the Commission for resolution by filing a request for Dispute Resolution.

Pole Owners may change make-ready charges once each year with 30 days notice. Regardless of when rate schedules have changed, make-ready estimates are binding for 60 days.

The make-ready invoice shall include at a minimum: date of work, description of work, location of work, unit cost or labor cost per hour, cost of itemized materials and any miscellaneous charges.

Owners shall notify Attachers within three business days of the completion of make-ready work. A rolling release procedure is encouraged.

G. Rearrangements

A party already attached to the pole shall not pay rearrangement costs required for subsequent Attachers. If party A's attachment causes a non-compliant condition that must be corrected subsequently, party A shall pay for the rearrangement to correct such condition. If party B (including the pole Owner), an Attacher subsequent to A, is unable to attach without rearrangement of other attachments, party B shall pay all rearrangement costs.

H. Temporary Attachments

Temporary attachments, which are made for emergency and rebuild/upgrade processes, may also be made for the installation of facilities to compensate for delays in make-ready and other impediments to accessing poles.

The methodology used for temporary attachments must be cognizant of all relevant safety requirements and the equipment used must be manufactured and intended for the application.

If temporary attachments are used, Attachers are still required to pay for all make-ready work necessary for the permanent attachment. Make-ready work on poles with temporary attachments shall be completed within a reasonable time. When make-ready work is completed, the temporary attachments shall be replaced with standard attachments within 30 days.

I. Boxing

Boxing of a pole involves attaching wires on opposite sides of the pole in order to meet required distances between attachments. The practice is employed in order to save space in attaching facilities to utility poles. Boxing of telecommunications facilities is a relatively common practice used by some Pole Owners but not by others. Some advantages of boxing of poles may be avoidance of high make-ready costs, pole replacement, and/or saving time and expediting construction.

Boxing of poles should be allowed in certain circumstances recognizing that such attachments need to be in compliance with relevant safety codes. Boxing of poles is not the first choice to be used when any make-ready work is required. On the contrary, all facility operators have expressed preference for conventional attachments with all facilities on one side of the pole, if this can be accomplished without exorbitant costs.

There are many factors to consider when deciding whether to employ boxing techniques and it is difficult to prescribe specific conditions that can be applied universally. The determination of boxing shall be done on a case by case basis. The basis for boxing is best determined during surveys of facilities when the representatives surveying the poles are in a good position to weigh all options and costs for the attachment. If the cost for a conventional attachment is exorbitant, boxing may provide an alternative means of attachment. Boxing shall only be considered on a pole if the pole can be safely accessed by ladders, bucket trucks, or emergency equipment, so that worker safety is not compromised.

If a utility currently does not allow boxing of its poles, this provision will not require boxing.

J. Extension Arms

Extension arm brackets are commonly used in many areas of the State. Extension arms may be an appropriate method of attachment for both permanent installations, when make-ready costs are exorbitant, and/or on a temporary basis when make-ready work cannot be performed in a timely manner. Temporary extension arms

shall be allowed and their removal shall be required within 30 days after make-ready work is completed.

A determination of whether extension arms may be used safely is best made during the pre-construction survey of the pole-line facilities in advance of licensing. During the pre-construction survey, determinations are made concerning the specific arrangements for attachments. That review shall give consideration to the permanent use of extension arms when exorbitant make-ready costs are identified and use of an extension arm allows for safe and reliable attachments. During the pre-construction survey and subsequent design and assessment of the make-ready work, the scale and time requirements of the make-ready work become apparent. If it is anticipated that the pole Owners will not be able to make the poles ready within the time frame prescribed, allowances for temporary attachment employing extension arms, in compliance with relevant codes, shall be made. Allowing temporary attachments to poles in this manner provides pole Owners some relief from the immediate demands of the make-ready workload.

K. Power Supplies

Power supplies shall be installed in a safe, reliable, and practical manner. Equipment placement shall be determined during the initial make-ready survey or subsequent reviews for the power supply. Power supplies shall be installed in compliance with relevant safety codes giving consideration to the needs of all Attachers.

L. Standards

The general standards prescribed by the National Electric Safety Code (NESC) and conventional manuals of construction practices and procedures cover most situations regarding the safe and reliable installation and operation of telecommunications facilities. NESC is a minimum safety standard. Some pole Owners may impose standards that are stricter than NESC. If an Attacher questions a stricter standard, Owners shall explain why they have adopted a stricter practice than NESC. If facility operators (including pole Owners and Attachers) require unique conditions, that can be

justified, special consideration of such prescriptions shall be made known to all parties and included in the standard procedures.

M. Post-Construction Inspections

Pole Owners may choose to perform post construction inspections within 30 days after completion of construction and charge Attachers for such inspections. If an Owner plans to do a post construction inspection, it shall notify Attachers of when inspections will be done so that Attachers may participate. However, through mutual agreement of the parties, Attachers may perform post construction inspections within 30 days after completion of construction and avoid the inspection fee.

If an Attacher conducts a post-construction inspection, it shall notify the owner. A pole Owner will have 30 days after receiving the notification to perform any review it wishes to undertake to ensure compliance such as a statistical sample.

If any violations are found by the Owner after attachment, the Attacher must correct the violation immediately and pay the Owner's cost of inspection. If a violation is not corrected within 30 days, the Owner may correct the violation at the Attacher's expense. Parties may agree to different terms, but this will serve as a default if parties do not agree.

N. Overlapping

Pole Owners and Attachers are obligated to install and operate their facilities in compliance with all relevant safety codes. Pole Owners and Attachers shall notify each other of major pole line work projects, such as overlapping, to avoid conflicts in crews trying to access the pole's work space. Notices of such projects shall be forwarded to designated liaisons for Attachers and Pole Owners as soon as the work dates are known. The date the information is provided will serve as a reservation to the first entity posting its intention of working in the area, respectful of emergency situations.

All Attachers shall notify Pole Owners of any overlapping activity when work dates are known. A predetermined, limited amount of overlapping, that is not a substantial increase to the existing facilities, shall be allowed. Typically, a fiber cable overlapped to an existing coaxial cable facility with a common trunk and feeder cable

configuration adds very little to the existing facility's overall weight and bundle diameter. Consequently there is little concern about ice and wind loading.

An analysis shall be conducted by the primary Attacher whose facilities are being overlashed. That analysis shall assure that the primary facilities and those overlashed are in compliance with the NESC.

An Attacher, whose facility has a pre-existing NESC calculated span tension of no more than 1,750 lbs., shall be allowed to overlash a pre-determined maximum load of not more than 20% to the existing communications facility. Existing facilities with an NESC calculated span tension of less than 1,000 lbs. shall be allowed a pre-determined overlash of up to 40% of such pre-existing facilities.

When the analysis determines that the addition of equipment and loading is greater than the pre-determined limits, further assessment of the overlashed facility for its impact on the overall pole loading is required to assure that poles limits are not exceeded. The Attacher shall provide the pole Owner with a "worst case" pole analyses from the area to be overlashed, to be sure the additional facilities will not excessively burden the pole structures. This information is important to the pole Owner for future attachment applications and engineering.

Overlashed facilities that are added to an already licensed pole attachment do not place any additional space requirements on a pole and therefore shall not be considered an additional and separate attachment. Overlashed and third party overlashed facilities need to be installed respectful of relevant codes and guidelines. The pole Owner may not charge for overlashed equipment, except for any make-ready charges. Opinion No. 97-10 is modified to the extent required on this issue.

The overlashing of cables by third party facility operators may require the same considerations as those for first party overlashers. As with first party overlashing, all facility operators shall be informed of any substantial work project to avoid conflicts in the work space. It is unnecessary to detail the exact nature of the facilities being installed. However, the relative size and weight of the equipment shall be disclosed to

allow engineering analysis for space and weight issues. All overlashed facilities shall be in compliance with NESC.

O. Audits

In order to provide a common base line for all future pole audits, all pole Owners and Attachers shall either stipulate as to what attachments are on the poles or conduct an audit to determine what attachments are on the poles to be completed within three years of the date this policy statement is adopted.

Owners and Attachers may choose to simply agree that their current records will be the baseline. Parties are encouraged to compare current records before choosing whether to stipulate or to conduct audits. If a joint audit is conducted it will be done at each parties own expense. After the stipulation or audit is completed, unlicensed attachments found will result in a rate of three times the pole rental per attachment back to the date of the stipulation or audit. Until a stipulation is made or an audit completed, provisions for unlicensed attachments in pole attachment agreements will remain in effect.

P. Billing Invoices

The audit and/or stipulation outlined above shall eliminate billing disagreements on a going forward basis as all attachments will be stipulated. Parties shall develop procedures for tracking and recording subsequent attachments. However, the ultimate responsibility for billing is on the utility to prove an amount is owed. The Attacher is required to maintain records in order to verify bills. The data base shall, at a minimum, identify pole number and municipality, and indicate if a pole is wholly or jointly owned, in such a way that each pole is uniquely identified. A single custodian for issuing invoices for jointly owned poles is encouraged but not required.

Q. Periodic Inspect

Periodic inspections of poles for compliance with the NESC may be done at the expense of the Attacher if so provided for in the pole attachment agreement. Serious violations shall be corrected within 10 days of notification.

All facility operators shall designate a means by which they wish to receive electronic notification of pole attachment issues.

III. UNDERGROUND PROCESS

A. Advance Notice of Application and Process

Underground Occupants shall notify conduit Owners of known significant upcoming projects in advance of submitting an application. The application process shall be the same as that set out for the Aerial process.

B. Pre-Installation Inspections

Attachers shall have access to conduit records, with any necessary redactions, at the Owner's office.

Time tables for underground surveys shall be the same as for overhead installation surveys. If an Owner is unable to meet a timetable for the survey, Occupants may use employees or contractors approved by the Owner, except as provided below.

Owners shall make safety inspections of a manhole within 10 days of a request by an Attacher to enter a manhole unless they can demonstrate why it is not possible. All Owners shall work toward providing inspections within the 10-day time frame. In any case, inspections shall be done within 20 days.

Safety and environmental inspections shall be good for 30 days, provided contractors working in manholes are trained to do safety inspections each time they enter the manhole. Costs of the initial inspection by the owner shall be shared by all entities entering the manhole during the 30-day period.

C. Make-ready Work

Make-ready work includes: physical inspection and verification of availability for use, rodding and roping, brushing, installation of inner-duct and installation of fiber optic cable. Owners agree that installation of inner-duct and fiber optic cable may be performed by the Attacher. While Con Edison allows Attachers to perform some of the other functions, utilities without training programs, do not. Work that may only be performed by the Owner's employees or its qualified contractors include: preliminary inspections, environmental clean up, electrical repairs and

inspections. The Owner may charge the Attacher only for work required by the needs of the Attacher.

The same timetable as for overhead make-ready work will apply to the underground process. Approved contractors shall be hired if timetables are not met. However, circumstances beyond the owner's control, other than resource problems, will excuse meeting the timetable. Non-payment of charges will also stop the clock for meeting timetables.

Make-ready estimates shall be binding within a certain range, specified by the parties, and then be trued up to actual costs within the range. If extraordinary, unforeseen circumstances occur, the owner may seek relief through the Commission's dispute resolution services.

D. Inspectors

Each Owner shall provide the charges for electric manhole inspectors in its operating agreement to be posted on its website. Owners shall provide Attachers with all supporting work papers for the charges, on request.

If Owners determine that inspectors are necessary for telecommunication manholes, the reasonable cost of inspectors shall be paid by the Attacher. Owners shall provide cost support for such charges.

E. Slack

A conduit Owner may charge an Occupant for slack.

F. Standard Procedures

Owners shall develop standard procedures for all Occupants, as appropriate. Deviation from standard procedures shall be justified.

G. Point of Entry

A charge for entering a manhole is acceptable if cost justification is provided by the Owner.

IV. STANDARD AGREEMENT; OPERATING
PROCEDURES; ATTACHER AND CONTRACTOR
QUALIFICATIONS; AND WORKING GROUP

A. Standard Terms and Conditions

Owners shall develop standard terms and conditions for pole attachment agreements that apply to all Owners and Attachers. A standard agreement shall be approved by the Commission. The agreement will be effective for all current and future Attachers.

Substantive amendments to the standard agreement shall be filed with the Commission. However, the standard agreement may have additional terms negotiated between the parties. Agreements with additional terms shall be filed with the Commission for information only. Terms available to one party shall be available to all. If parties object to an amendment, they may seek review from the Commission.

B. Operating Procedures

The Standard Pole Attachment Agreement shall provide all general terms, conditions and procedures that apply to pole attachments. The Operating Procedures will provide specific details unique to each company. Changes to Operating Procedures shall be made on 30 days written notice, with Dispute Resolution for disputes. Parties will be expected to follow and adhere to operating procedures.

C. Licensee and Contractor Qualifications

Each Owner shall provide a list of qualified local contractors to be used by it or by Attachers for survey, pole, and conduit work. The list shall be given to Attachers along with Operating Procedures on request. If an attacher wishes to employ a contractor not on the list, the Attacher shall submit the contractor's qualifications to the Owner for approval as a qualified contractor.

D. Working Group

A working group to discuss ongoing pole attachment issues is desirable.

V. EXPEDITED DISPUTE RESOLUTION ("EDR")

A dispute shall be discussed at the intermediate level in a company for 10 days before going to the Company Ombudsman. The dispute shall remain with the Ombudsman for 12 days before being taken to the Commission for Dispute Resolution.

A. EDR Process at the Commission

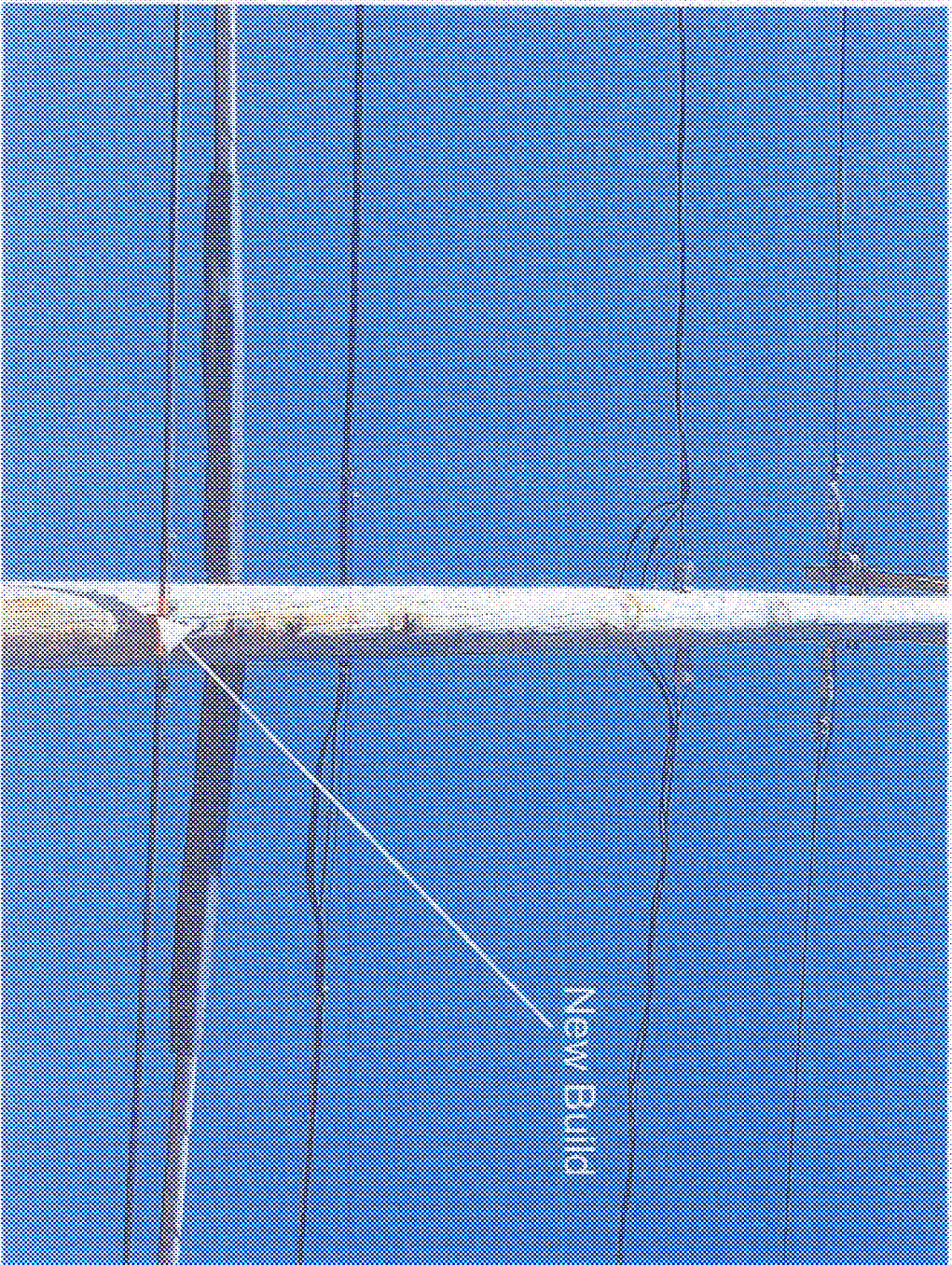
An initial filing for Dispute Resolution shall be sent to the Secretary of the Commission.

B. Pendency

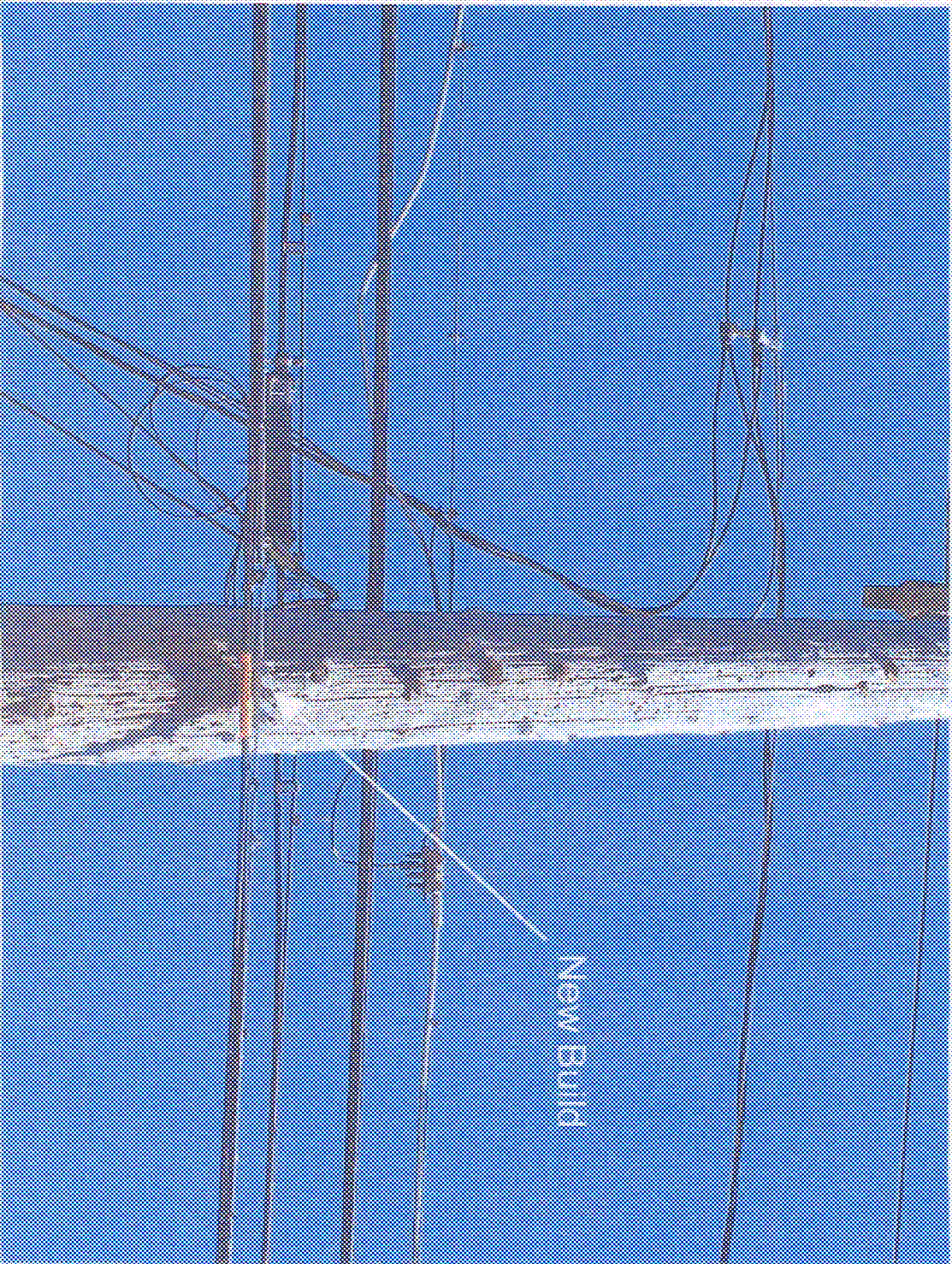
Disputed work shall continue to the extent possible during a dispute. Where the dispute is over cost, the work shall continue as long as the Attacher pays 50% of the total amount of the disputed invoice(s). Payment of the disputed invoices shall note that they are being paid under protest and subject to reconciliation following resolution of the dispute. If the dispute is over the form or location of the attachment or the use of a temporary attachment, it is not expected that the disputed work will continue.

Exhibit 4
Photos of Verizon Boxing
and Extension Arms

NM172/ NYT90



NM85/ NYT225



NM200/ NYT118

